Docket No.:   POKE-0007   <u>PATENT</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of   Confirmation No.: 6145

Randall S.E. PETERSON   Group Art Unit: 2714

Serial No.: 10/614,752   Examiner: Frank Leiva

Filed: 7/8/2003   Customer No.: 34610

For: METHOD OF DETERMINING SKILL LEVEL IN A TOURNAMENT SETTING

PRE-APPEAL BRIEF REQUEST FOR REVIEW

U.S. Patent and Trademark Office
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Sir:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this Request. This Request is being filed with a Notice of Appeal.

The March 27, 2007 Office Action finally rejects claims 1-22 under 35 U.S.C. § 102(a) over Saidakovsky (U.S. Patent No. 6,604,997). For the reasons set forth below, it is respectfully submitted that the claims are allowable and that the rejection should be withdrawn.

Saidakovsky is directed to a system for conducting game tournaments online. In the Saidakovsky system, multiple participants can register with the game service and then enter various different individual tournaments. The Saidakovsky system will set a time window for game play of a particular tournament. Once the time window opens, a participant can log into the system and play a set of games that comprise the particular tournament. The Saidakovsky system interacts with a participant and tracks the results of the participant's play. The results are recorded by the system, and after the tournament time window closes, the results for the all of the tournament participants are compared to one another to determine the winners.

In the Saidakovsky system, participants can accomplish the tournament game play at any time within the predetermined time window for tournament play. As a result, various participants will log into the system at different times in order to complete their game play.

Because each of the users can log into the system at different times in order to complete the tournament game play, the Saidavovsky system necessarily must provide different games to each of the users. If the Saidavovsky system provided the same games to all of the players, one person could log in under a first user name and play the games for the tournament, and then that same person could log in using a different user name and play the same games again. This would allow an individual user the opportunity to practice using one user name, and then complete the tournament under an entirely different user name using the knowledge gained during the first play. It would also allow a first participant to provide advice to a second participant so that the second participant could complete the game play using knowledge gained by the first participant.

Saidavovsky recognizes the inherent problems in providing the same set of games to each of the participants in a tournament. To prevent cheating, Saidavovsky deliberately provides <u>different</u> games to each of the tournament participants. Of course, because different games are provided to each of the participants, one could argue that some participants are getting easier games than other participants, and that they therefore have an advantage. For this reason, the vast majority of the disclosure of the Saidavovsky patent is devoted to a description of methods which can be used to create different games for each of the participants, while still ensuring that the difficulty level of the different games is basically the same. Saidakovsky teaches how to provide different games to each of the participants, but still keep the difficulty level the same, thereby preventing cheating and keeping the tournaments fair.

The Advisory Action issued on July 17, 2007 alleges that Saidakovsky teaches providing all players of a tournament with the same games. As support for this proposition, the Advisory Action points to the passages at column 9, lines 54-58 and at column 13, lines 53-57. For the reasons explained below, it is respectfully these submitted that these passages of Saidavovsky do not indicate that

Saidakovsky is providing the same games to all players of a tournament. Instead, these passages merely relate to methods used to ensure that the <u>different</u> games provided to the players all have substantially the same level of difficulty.

The passage of Saidakovsky appearing at column 9, lines 54-58 relates to an online game called "Jigsaw Genius." In this game, a picture is divided up into jigsaw type pieces, and the pieces are randomly scattered on the screen presented to the player. Just as with a normal jigsaw puzzle, the player must then assemble the pieces to form the completed image. The faster the player is able to assemble the pieces to form the completed image, the higher the player's score.

Saidakovsky recognizes that if the puzzle pieces were always in the same initial positions at the beginning of each game for each player, then a single player could play the game multiple times under different user names. Each time the player goes through the game, the positions of the pieces learned during previous plays will help him to increase his assembly speed, thereby increasing his score. To eliminate this possibility of cheating, Saidakovsky discloses a method of randomly scattering the pieces of a puzzle so that each player starts with a <u>different</u> arrangement of puzzle pieces.

Saidakovsky discloses a method for randomly placing the separated pieces of the puzzle into initial starting positions and initial rotational orientations so that each player is starting with a <u>different</u> <u>initial arrangement</u> of the pieces, but such that the difficulty level is approximately the same for each player. See Saidakovsky at column 9, line 59 – column 10, line 49, and in Figure 2. It is true that the same image is used in each of the games. But the initial starting positions and rotational orientations of the puzzle pieces are always different. Although Saidakovsky strives to keep the level of difficulty the same, the players are most certainly <u>not</u> presented with the same games.

The passage of Saidakovsky appearing at column 13, lines 53-57 relates to an online game called "Crossword Challenge." This game requires the players to solve a typical crossword puzzle. The faster the player is able to solve the crossword, the better his score.

Here again, Saidakovsky recognizes that if all players were presented with exactly the same crossword puzzle, it would be possible to cheat. A single player could play the game multiple times, and each time through, he would undoubtedly become faster. To prevent this sort of cheating, Saidakovsky discloses a method of creating crossword puzzles such that each player is presented with a <u>different</u> crossword puzzle, but such that the difficult level remains substantially the same for all players.

The referenced passage of column 13 indicates that each crossword puzzle is to have the same grid size, and be based on the same database of word-clue pairs. However, the Saidakovsky method randomly assembles these word-clue pairs into completely different orientations to create a <u>different</u> crossword puzzle for each of the players. See Saidakovsky at column 13, line 53 – column 15, line 5, and in Figure 4.

In the present application, independent claim 1 is directed to a method of determining a skill level for individuals playing card game tournaments. Claim 1 recites arranging the individuals into a plurality of groups, assigning the individuals to a plurality of tables, each of the plurality of tables comprising a predetermined number of positions each having a respective label for each of the plurality of groups. Claim 1 recites providing cards to the individuals such that individuals assigned to positions with the same label at each table have the same cards. Finally, claim 1 recites comparing the performance of the individuals in the same group, being at the same position at the different tables.
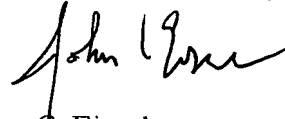
Independent claim 12 is directed to a game system for playing a card game in a tournament setting. Claim 12 recites a plurality of computers used by a plurality of individuals, a host server, and various modules which are executed by the host server. Claim 12 recites a tournament module which is configured to divide the individuals into a plurality of groups, and to assign the individuals to a plurality of tables with each table comprising a predetermined number of positions, each position having a respective label corresponding to the respective groups. Claim 12 further recites a dealing module which provides cards to the computers such that individuals assigned to positions with the same label at each table have the same cards. Claim 12 further recites a monitoring module configured to track game

play and a ranking module configured to compare the performance of individuals in the same group being at the same position at different tables.

At explained above, the claimed system and methods require that tournament players within an assigned group all receive the same cards, and that the players within a particular group are ranked against one another based on how well they do playing the same set of cards. In contrast, and as also explained above, the Saidakovsky system never provides the same set of cards, or the same set of games to multiple players. Thus, Saidakovsky also necessarily does not compare players playing the same cards/games to one another, because all of the players in the Saidakovsky tournaments play different cards/games. For at least these reasons, it is respectfully submitted that the claims are allowable over Saidakovsky, and withdrawal of the rejection is respectfully requested.

Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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